

REMARKS

Reconsideration of the application is requested in view of the above amendments and the following remarks. New claims 31-42 have been added. The new claims are supported by the originally filed claims and the description at pages 7-8 of the present specification. No new matter has been added.

§103 Rejections

Claims 20, 21, 23-27 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 19537190. Applicant respectfully traverses this rejection.

Claims 20 and 29 require a blind having vertical slats that define first and second faces, wherein the second face is aligned vertically below the first face. The first face is configured to transmit substantially no light while providing substantially no visibility, and the second faces is configured to at least partially transmit light while providing visibility. The structure of the vertical slats makes it possible to reduce the amount of light coming into a room by blocking light through the first, upper oriented face while still providing visibility through the second, lower oriented face. The claimed blind addresses a problem of high incident light in a workspace that typically affects, for example, a person's ability to view their computer screen (see page 1, paragraph 4 of the present application) by subduing incident light that would otherwise enter the workspace through an upper portion of a window associated with the blind while still providing some visibility outside for workers in the workspace through a lower portion of the window.

In contrast, DE '190 includes structure in which the light transmissivity properties of the vertical slats are reversed from the claimed invention such that there is no light transmissivity and visibility through a vertically lower portion of the vertical slats and there is light transmissivity through the top portion of the vertical slats. DE '190 addresses a problem of lack of visual security wherein those outside of the room looking in can see a person present at their work space (for example, in banks or an office where the person does not want to be viewed). DE '190 address this problem by blocking visibility through the lower part of the blind so as to

provide the desired visual security while still allowing as much light into the room as possible by permitting light transmission through the upper portion of the blind.

DE '190 fails to disclose or suggest "each of said slats transmits substantially no light for a first portion of each slat corresponding with the first face partially transmits light for a second portion of each slat corresponding with the second face, wherein the first face transmits substantially no light and the second face subdues incident light," as required by claim 20. DE '190 also fails to disclose or suggest a plurality of vertically oriented slats "wherein when the slats are in the closed position, the slats define a first face extending across a width of the blind and a second face extending across the width of the blind at a position vertically below the first face, and each slat includes a first portion aligned with the first face and configured to transmit substantially no light to the blind while providing substantially no visibility through the blind, and a second portion aligned with the second face and configured to partially transmit light through the blind while providing visibility through the blind," as required by claim 29.

DE '190 must provide some suggestion or motivation for one of ordinary skill in the art referencing DE '190 to provide all of the limitations required by claims 20 and 29. Applicant submits that DE '190 fails to provide such a suggestion or motivation, and in contrast, teaches away from the limitations of claims 20 and 29.

DE '190 fails to disclose or suggest in any way reversal of the light transmissivity properties of the upper and lower regions of the blind slats disclosed therein. In fact, DE '190 provides several examples of the positive effects of the design disclosed in that reference including, for example, "a further positive effect of divided vertical blind slats is the protection from people looking in. For instance, in banks or general practitioners' offices, the blinds can be closed further than heretofore, to make it more difficult to look in from the outside, or to prevent same." See page 2, lines 25-28. DE '190 fails to suggest that it would be possible to rotate the blind slats to provide a reverse effect of having high light transmissivity or visibility at the bottom portion of the blind and low light transmissivity and low visibility at the top portion of the blind, and also fails to disclose or suggest that the blind configuration disclosed therein could be used to address any other problem or satisfy an other need besides low light transmissivity at the bottom portion of the blind and high light transmissivity at the top portion of the blind.

The Office Action incorrectly asserts that the claimed design is a mere modification of DE '190 and does not involve a novel and nonobvious improvement. The rejection has not set forth a teaching or suggestion by DE '190 of the claimed design. Therefore, Applicant submits that one skilled in the art reviewing DE '190 would have no suggestion for changing the features disclosed therein to obtain the limitations required by claims 20 and 29 of the present application. It is only through a hindsight analysis in which the limitations of claims 20 and 29 are known that the present rejection has been established. The prior art must provide a motivation or reason for the worker in the art, without the benefit of the appellants specification, to make the necessary changes to the referenced device. See ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351,353 (Bd. Pat. App. & Inter. 1984). (MPEP 2144.04). A prima facie case of obviousness has not been established.

In view of the above, Applicant submits that DE '190 fails to disclose or suggest or to provide sufficient motivation for one of ordinary skill in the art to create a blind having the limitations of claim 20 and 29, and the claims that depend from them. Furthermore, DE '190 discloses a different structure having different functions that address different problems than those addressed by the limitations of claims 20 and 29. Therefore, Applicant submits that the claimed invention is not obvious in view of DE '190. Withdrawal of the rejection is respectfully requested.

Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '190 and further in view of Levert (US 6,123,137). Applicant respectfully traverses this rejection. As stated above, DE '190 fails to disclose or suggest every limitation of claim 20. Levert fails to remedy the deficiencies of DE '190 as it relates to claim 20. Therefore, claim 22 is allowable for at least the reason it is dependent upon an allowable base claim. Applicant does not otherwise concede the correctness of this rejection.

New Claims

Claims 30-37 have been added as dependent claims to claim 29. Claims 30, 31 and 33-37 track the limitations of claims 21-27. Claim 32 is supported by at least the description at page 7 of the present specification. Claims 30-37 are allowable for at least the reason they are dependent upon an allowable base claim.

Claims 38-42 has been added. The limitations of claims 38-42 are supported by at least claims 20 and 29 and the description at page 7 of the present specification. Applicant submits that the art of record fails to disclose "the first portion being oriented vertically higher than the second portion and including a layer configured to inhibit substantially all viewing and light transmission through the slot," as required by claim 38 and the claims that depend from it.

Applicant requests consideration and allowance of new claims 30-42.

In view of the above, Applicant requests reconsideration of the application in the form of a Notice of Allowance. If a phone conference would be helpful in resolving any issues related to this matter, please contact Applicant's attorney listed below at 612.371.5265.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date:

Feb. 22, 2005

[Signature]
John J. Gresens
Reg. No. 33,112
JJG:JNR:ae

23552

PATENT TRADEMARK OFFICE